



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Shedden
Serial No.: 09/487,401
For: ACTIVE LOG READ I/O BALANCING FOR LOG
DUPLEXING
Filed: 19 JAN 2000
Examiner: Jean B. Fleurantin
Art Unit: 2172
Confirmation No.: 3119
Customer No.: 27,623 Attorney Docket No.: ST9-99-033

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant is submitting the present document in response to a Notification of Non-Compliant Appeal Brief (hereinafter "the Notification") for the above-noted application.

On 1 NOV 2004, Appellant mailed an Appeal Brief (hereinafter "the Brief"). The Notification indicates that Appellant must file a complete new brief in compliance with 37 CFR 41.37 because the Brief does not contain the items required under 37 CFR 41.37(c), and more specifically, because the Brief does not contain a section entitled "Grouping of Claims." Below, Appellant explains that contrary to the assertion in the Notification, the Brief contains the items required under 37 CFR 41.37(c).

37 CFR 41.37(c)(1) identifies items and enumerates headings that must be included in the Brief. None of the headings is entitled "Grouping of Claims."

37 CFR 41.37(c)(1)(vii) requires a section entitled "Argument", and states that claims argued as a group should be placed under a subheading identifying the claims by number. The Brief, on page 7, includes a section entitled "(7) Argument." Subordinate to this section, the Brief includes the following subheadings:

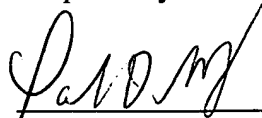
- (a) Claims 1, 2, 7, 8 13 and 14 stand or fall together (see page 7);
- (b) Claims 3, 9 and 15 stand or fall together (see page 11);
- (c) Claims 4, 5, 10, 11, 16 and 17 stand or fall together (see page 12); and
- (d) Claims 6, 12, and 18 stand or fall together (see page 12).

On 9 MAR 2005, via telephone, Appellant and Examiner Fleurantin discussed the Notification, and reviewed 37 CFR 41.37. The Examiner agreed that 37 CFR 41.37(c)(1) does not require a section entitled "Grouping of Claims", and also agreed that the Brief contained a proper heading and subheadings pursuant to 37 CFR 41.37(c)(1)(vii).

In view of the foregoing, Appellant submits that the Brief is in compliance with 37 CFR 41.37, and as such, there is no need for Appellant to file a new complete brief. Accordingly, Appellant respectfully requests reconsideration of the assertion in the Notification, and withdrawal of the requirement for a new brief.

3-23-05
Date

Respectfully submitted,



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COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450**

Dear Sir:

AMENDMENT TRANSMITTAL

We are enclosing a Response to Notice of Non-Compliant Appeal Brief in response to the communication dated February 24, 2005 in the above-identified application.

Petition for extension of time pursuant to 37 C.F.R. §§ 1.136 and 1.137 is hereby made if, and to the extent, required. The fee for this extension of time is calculated to be \$_____ to extend the time for filing this response until _____.

The fee for any change in number of claims has been calculated as shown below.

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest Number Previously Paid	Present Extra	Rate	
Total Claims	18	Minus	21	0	x \$50.00	\$0.00
Independent Claims	3	Minus	3	0	x \$200.00	\$0.00
MULTIPLE DEPENDENT CLAIM FEE				x \$360.00 = \$		
TOTAL FEE FOR CLAIM CHANGES				\$0.00		
1/2 FILING FEE FOR SMALL ENTITY				\$N/A		

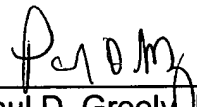
The total fee for this amendment, including claim changes and any extension of time is calculated to be \$ 0.00 .

 A check in the amount of \$ 0.00 is attached.

X The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §§1.16 and 1.17 which may be required with this communication or during the entire pendency of the application, or credit any overpayment, to **Deposit Account No. 09-0460**. A duplicate copy of this Form is enclosed.

March 23, 2005

Date



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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP APPEAL BRIEF - PATENTS, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, ON MARCH 23, 2005.

Keysha Whitaker
NAME



SIGNATURE

3-23-05
DATE